

REMARKS

In the office action dated May 27, 2009, the examiner rejected claims 15-21 under 35 U.S.C. 103(a) as being unpatentable over Thomas (USPN 7,134,130), in view of Johnson (Pub No US 2004/0078806), and claims 1-14 and 22-35 under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Johnson further in view of Kahn (EP 1,134,972). Applicant respectfully traverses the claim rejections. In view of the subsequent remarks, Applicant requests reconsideration and withdrawal of the examiner's rejections.

As the examiner indicates in the Office Action, Thomas and Johnson fails to disclose or provide a teaching of:

non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers, wherein the plurality of viewing profiles include content-based specifications and wherein one or more of the plurality of viewing profiles include two or more time range specifications and different content-based specifications corresponding to each of the two or more time range specifications;

as claimed in claim 1;

selecting a viewer specification associated with the viewer indicator; the viewer specification including one two or more content-based specifications associated with one and two or more time range specifications, wherein different content-based specifications correspond to each of the two or more time range specifications;

as claimed in claim 15; and

non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers, wherein the plurality of viewing profiles include a plurality of time range specifications and different content-based specifications corresponding to each of the plurality of time range specifications;

as claimed in claim 22. The examiner specifically states that:

"[I]t is noted that Thomas and Johnson fail to explicitly disclose different content-based specifications corresponding to each of the two or more time range specifications."

In turn, the examiner relies on Kahn to cure this deficiency. Kahn, however, does not provide a teaching to fill the noted deficiency in Thomas and Johnson. As shown by Figure 4, a viewing profile prohibits viewing during certain time periods and prohibits viewing of programs that exceed certain program ratings, but does not show a correspondence between the two censoring parameters. Rather, they are shown to be independent considerations in determining whether to block a program signal. (At page 4 of the office action the examiner incorrectly refers to viewing time limits instead of viewing time periods.) Even if the time period and program rating prohibitions were considered to be linked as interpreted by the examiner, Kahn does not teach each of two or more time range specification or each of a plurality of time range specification having different content specifications. The disclosure of Kahn relied on by the examiner, reproduced below, provides no discussion or suggestion of any link between these parameters:

[0031] Viewer profile 402 may also include prohibited viewing time entries 416 and 418 for weekdays and weekends, respectively. In addition, blocked channel entry 420 and prohibited rating entry 422 may be included. It is contemplated that the system administrator may use Screen 400 to edit viewer parameters such as Weekday Hours Allotted 408, Weekend Hours Allotted 412, Prohibited Times 416, 418, Blocked Channels 420 and Prohibited Ratings 422 after a user account is established.

In sum, Thomas, Johnson, and Kahn, whether individually or in combination, fail to teach or suggest:

non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers, wherein the plurality of viewing profiles include content-based specifications and wherein one or more of the plurality of viewing profiles include two or more time range specifications and different content-based specifications corresponding to each of the two or more time range specifications;

as claimed in claim 1;

selecting a viewer specification associated with the viewer indicator; the viewer specification including one two or more content-based specifications associated with one and two or more time range specifications, wherein different content-based specifications correspond to each of the two or more time range specifications;

as claimed in claim 15; and

non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers, wherein the plurality of viewing profiles include a plurality of time range specifications and different content-based specifications corresponding to each of the plurality of time range specifications;

as claimed in claim 22.

However, even if Kahn could be considered to meet these limitations as suggested by the examiner, the combination of Thomas, Johnson and Kahn effectively teaches away from the claimed invention and, if not teaches away, would require a modification of Johnson and/or Kahn that would render Johnson and/or Kahn inoperable for their intended purpose. Specifically, the combination of Thomas, Johnson and Kahn effectively teaches away from

a signal impairment mechanism coupled to the second logic unit and configured for, based on the control signal, selectively passing a program signal there through without substantial impairment if the reference time falls outside of each of the two or more time range specifications corresponding to the active viewing profile or the content-based indicator does not exceed the content-based specification corresponding to one of the two or more of time range specifications of the active viewing profile within which the reference time falls or passing the program signal there through with substantial impairment if the content-based indicator exceeds the content-based specification corresponding to one of the two or more time range specifications of the active viewing profile within which the reference time falls within;

as claimed in claim 1;

generating a control signal based on the comparison between the selected content-based specification and the received content-based indicator, wherein the

control signal enables selectively passing a program signal without substantial impairment if the reference time falls outside of each of the two or more time range specifications corresponding to the selected viewer specification or the content-based indicator does not exceed the content-based specification corresponding to the time range specifications reference time falls or passing the program signal with substantial impairment if the content-based indicator exceeds the content-based specification corresponding to the time range specification the reference time falls within;

as claimed in claim 15; and

a signal impairment mechanism coupled to the logic unit and configured for, based on the control signal, selectively passing a program signal there through without substantial impairment if the reference time falls outside of each of the plurality of time range specifications corresponding to the active viewing profiles or the content-based indicator does not exceed the content-based specification corresponding to one of the plurality of time range specifications of the active viewing profile within which the reference time falls or passing the program signal there through with substantial impairment if the content-based indicator exceeds the content-based specification corresponding to one of the plurality of time range specifications of the active viewing profile within which the reference time falls within;

as claimed in claim 22.

Kahn, as interpreted by the examiner, would impair the program signal if the reference time falls within the time range specification and may impair the program signal if the reference time falls outside the time range specification but exceeds a content-based specification. Johnson discussion a similar control scheme. In contrast, claimed invention enables unencumbered viewing if the reference time falls outside. Thus, Kahn and Johnson either teach away from the claimed invention or must be modified in a way that renders them inoperable for their intended purpose.

In view of the foregoing, Applicants respectfully submit that Thomas, Johnson, and Kahn cannot establish a *prima facie* case of obviousness. Accordingly, claims 1, 15 and 22, and claims 2—14, 16—21, and 23-35 by virtue of their dependence upon 1, 15 and 22, meet the

requirements for patentability under 35 USC 103.

Related Application No. 10/663,015 ('015 application)

The '015 application and the subject application were filed on the same day and share a common specification. In the '015 application, the examiner stated

"[I]t is noted that Thomas and Johnson fail to explicitly disclose that each time range specification corresponding individually to a separate content-based rating specification." OA, p. 16.

In an attempt to cure this deficiency, the examiner relied on Hamzy et al. (USP 7490340).

Applicants traversed the rejection arguing that Hamzy is not prior art and, even if considered prior art, that Hamzy teaches away from censoring program viewing utilizing the combined parameters of viewer and viewing time period.

A. **Hamzy is not prior art:** Hamzy is not prior art to the subject application because Applicant conceived of the claimed invention prior to the filing date of Hamzy, and exercised reasonable diligence from just prior to the filing date of Hamzy through the filing date of the subject application. As explained in the 37 C.F.R. 1.131 Declaration ("Declaration"), filed in the '015 application and submitted herewith, prior to April 2003, Applicant conceived of the invention disclosed and claimed in the above-identified patent application as evidenced by Exhibit 1 attached to the Declaration. Declaration ¶ 2. Exhibit 1 is a copy of a Mitsubishi Digital Electronics America, Inc. Invention Disclosure Form filled out by Applicant and submitted to Applicant's employer, Mitsubishi Digital Electronics America, Inc., prior to April 2003. Like the '015 application, Exhibit 1 describes the systems and methods disclosed and claimed in the above identified patent application. See, Declaration ¶ 3.

According to Applicant, from just prior to April 23, 2003 until September 15, 2003 when the subject application was filed, Applicant exercised reasonable diligence as evidence by

Exhibit 2 attached to the declaration. Declaration ¶ 4. Exhibit 2 is a copy of an email exchange between Applicant and another employee of Mitsubishi Digital Electronics America, Inc. , Jim Hicks, that covers a period extending from just prior to April 23, 2003 to after April 23, 2003 in which Applicant received a copy of a draft the '015 application for review and returned a marked up copy of the draft '015 application to Hicks.

The earliest effective filing date Hamzy is entitled to is April 23, 2003. As indicated in the Declaration, Applicant clearly conceived of the claimed invention prior to Hamzy's earliest possible effective filing date, and exercised reasonable diligence from at least just prior to April 23, 2003 to the filing date of the subject application on September 15, 2003. Thus, Hamzy is not prior art to the claims of the subject application. Accordingly, Applicants respectfully request that the Examiner withdraw the § 103(a) rejection based on Hamzy.

**B. Even If Considered Prior Art, Hamzy Teaches Away from the Claimed Invention**

In the '015 application, the examiner referred to Col. 4, lines 52-67 and figure 2 of Hamzy as providing the teaching to meet the missing claimed subject matter. However, Hamzy reads at Col. 4, lines 50—Col. 5, line 25 as follows:

**Window 200 includes two censorship type selections which are time censorship selection 210 and viewer censorship selection 235. A user uses time censorship selection 210 when the user wishes to censor media signals based upon a time-of-day.** For example, a parent may wish to configure a content receiver to show "TV-G" rated media signals while his children are awake, and show "TV-MA" rated media signals while his children are asleep. Time censorship selection 210 includes a first time range and a second time range. A user enters a first time range in text box 215 and enters a corresponding censorship level in text box 220. The example in FIG. 2 shows that a user's first time range is from "6 AM-9 PM" and the corresponding censorship level is "TV-PG".

A user enters a second time range in text box 225 and enters a corresponding censorship level in text box 230. The example in FIG. 2 shows that a user's second time range is from "9 PM-6 AM" and the corresponding

censorship level is "TV-MA". In one embodiment, a user may continue to add more time ranges in order to configure his time censorship selection in finer detail, such as on an hourly basis.

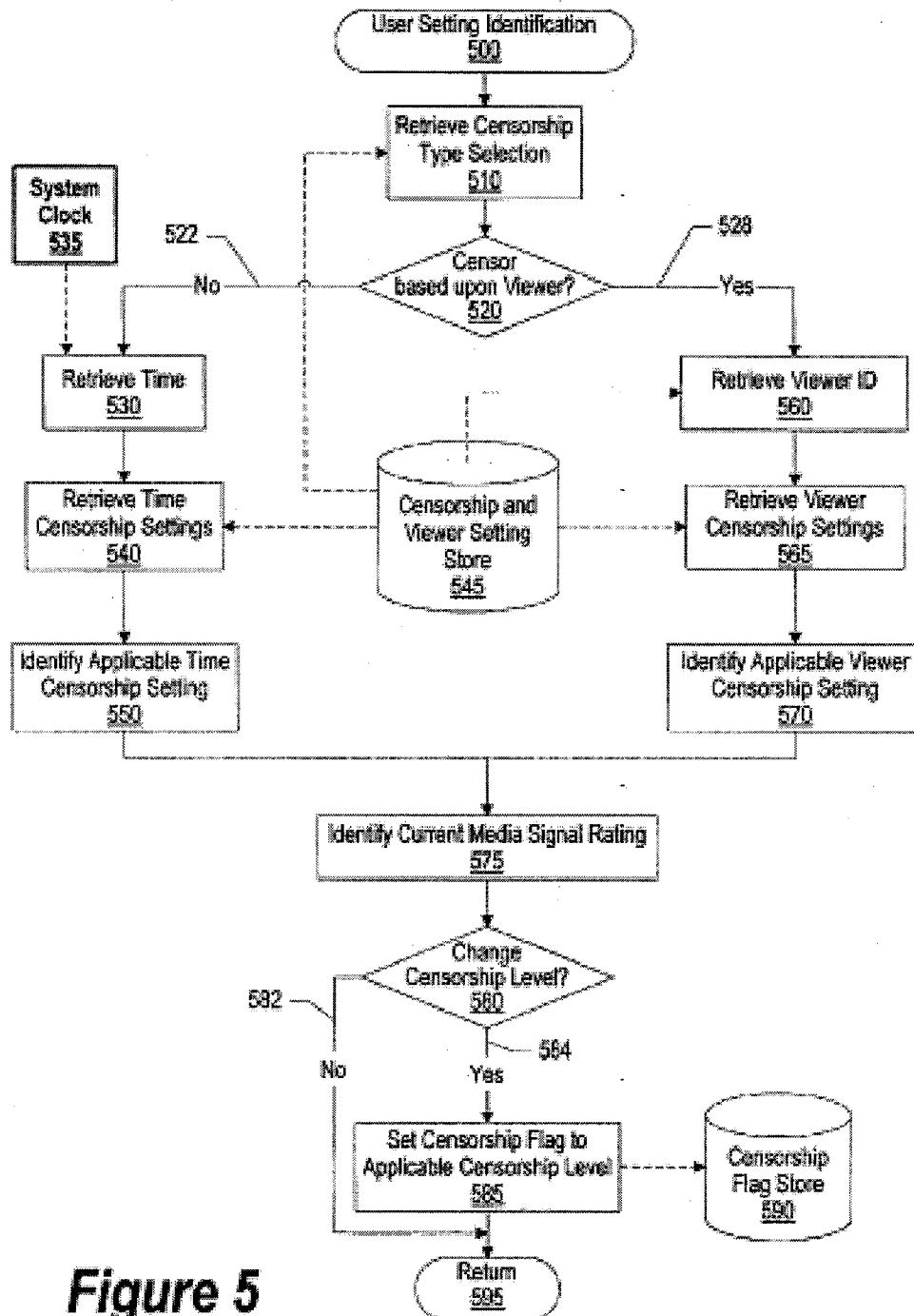
**A user uses viewer censorship selection 235 when the user wishes to censor media signals based upon which viewer is watching a particular media signal.** For example, a parent may configure a content receiver to show "TV-G" rated media signals to his five-year-old child and show "TV-PG" rated media signals to his teenager. The example in FIG. 2 shows censorship settings for three viewers. A user enters the name of a first viewer in text box 240 and enters the first viewer's corresponding censorship level in text box 245. The example in FIG. 2 shows that the first viewer is "Billy" and Billy's corresponding censorship level is "TV-G". A user enters the name of a second viewer in text box 250 and enters the second viewer's corresponding censorship level in text box 255. The example in FIG. 2 shows that the second viewer is "Sue" and Sue's corresponding censorship level is "TV-PG". A user enters the name of a third viewer in text box 260 and enters the third viewer's corresponding censorship level in text box 265. The example in FIG. 2 shows that the third viewer is "Tom" and Tom's corresponding censorship level is "TV-MA". In one embodiment, a user may continue to add more viewers in order to configure his viewer censorship selection corresponding to a particular number of people, such as the number of people in the user's family.

It is clear from this excerpt of Hamzy that the Hamzy system provides two separate types of control for censoring media signals, one based on viewers and associated content, and the other based on viewing time and associated content. A user is able to select either control scheme based on the viewer or based on the viewing time, but not both. This distinction is confirmed by a review of Fig. 5, and the description of Fig. 5 at Col. 7, line 45—Col. 6, line 49 in Hamzy:

FIG. 5 is a flowchart showing steps taken in identifying an applicable censorship level using stored control settings. Processing commences at 500, whereupon processing retrieves a censorship type selection from data store 545 (step 510). **The censorship type selection was chosen by a user, such as a parent, and may be either a time censorship selection or a viewer censorship selection** (see FIG. 2 and corresponding text for further details regarding censorship type selection).

**A determination is made using the censorship type selection as to whether to censor media signals based upon a viewer (i.e. viewer censorship selection) or based upon a time-of-day (time censorship selection) (decision 520). If processing should censor media signals based upon a time-of-day, decision 520 branches to "No" branch 522 whereupon processing retrieves a**

**current time from system clock 535 at step 530.** System clock 535 is a device that is capable of tracking the time-of-day, such as a timer. Time information is also included with the media signal provided by a satellite or cable television provider.



**Figure 5**

Processing retrieves time censorship settings from data store 545 at step 540. The time censorship settings correspond to various blocks of time. For example, a parent may wish to configure a content receiver to show "TV-G" rated media signals while his children are awake, and show "TV-MA" rated media signals while his children are asleep (see FIG. 2 and corresponding text for further details regarding time censorship settings). Processing identifies an applicable censorship level using the time acquired from system clock 535 and the retrieved time censorship settings (step 550). Using the example described above, the time-of-day may be 9 PM and processing identifies that the applicable censorship level is "TV-MA".

Processing identifies a media signal's censorship rating at step 575. For example, a media signal may be a television program with a censorship rating of "TV-PG". A determination is made as to whether to change the censorship level of the media signal by comparing the media signal's censorship rating with the identified applicable censorship level (decision 580). If the media signal's censorship rating and the identified applicable censorship level are different, decision 580 branches to "Yes" branch 584 whereupon processing sets a censorship flag at a level corresponding to the applicable censorship level, and stores the censorship flag value in censorship flag store 590 (step 585). For example, the censorship flag may have six levels wherein each level corresponds to each television rating level. On the other hand, if the media signal's censorship rating and the identified applicable censorship level are identical, decision 580 branches to "No" branch 582 bypassing censorship flag setting steps.

If processing should censor media signals based upon a viewer, decision 520 branches to "Yes" branch 528 whereupon processing retrieves a viewer identifier from data store 545 at step 560. Viewer identifiers are configured using a parental control user interface window and may have a corresponding personal identification number (PIN) that is used to authenticate the viewer. For example, the viewer may have used a remote control to select his name from a list of viewers and enter his PIN when he turns on the television.

Processing retrieves viewer censorship settings from data store 545 (step 565). The viewer censorship settings correspond to particular viewers. For example, a parent may wish to censor media signals at a "TV-G" rating for his five year old son "Billy", and censor media signals at a "TV-PG" rating for his teenage daughter "Sue" (see FIG. 2 and corresponding text for further details regarding viewer censorship settings). Processing identifies an applicable censorship level using the viewer identifier and the retrieved viewer censorship settings (step 570). Using the example described above, the viewer may be "Sue" and processing identifies the applicable censorship level is "TV-PG". Processing proceeds through decision 580 and step 585 as described above, and processing returns at 595.

Thus, Hamzy effectively teaches away from the claimed subject matter of censoring based on the combined parameters of viewer, time and content as claimed in claims 1, 15 and 22. Even if not considered to teach away from the claimed invention, the combination of Hamzy with Thomas and Johnson to meet the claimed invention would require Hamzy to be modified to enable censorship based on the combination of viewer and viewing time, which modification would render Hamzy inoperable for its intended purpose. Accordingly, a prima facie case of obviousness cannot be based on Hamzy, even if it were considered prior art.

CONCLUSION

Applicants respectfully assert the application is in condition for allowance. Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700.

Respectfully submitted,  
ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: September 18, 2009

By: /Kenneth S Roberts/

Kenneth S. Roberts  
Reg. No. 38,358

4 Park Plaza, Suite 1600  
Irvine, CA 92614-2558  
Tel. 949-567-6700  
Fax: 949-567-6710